granted in accordance with the provisions and forms of the rules made, that none other could exist, and that, therefore, the existence of none other could be implied. The weight of such argument with the Chief Justice of Nigeria may be seen. The Privy Council, however, set aside the judgment of the Full Court and the judgment of the Chief Justice in the Court of first instance was restored. Lord Shaw of Dunfermline in delivering judgment said :—

> Their Lordships find themselves in agreement with Osborne, C.J., who tried the cause, and has submitted both facts and law to a thorough consideration, that "it is quite impossible to believe that all the reclamation and subsequent building can have gone on without the knowledge and against the wish of the Government.....as the Government must have been aware of the reclamation and subsequent building, it is more probable that those acts were done with permission from the Governor for the time being than that they were acts of trespass done in defiance of the Government.
>
> It remains accordingly for the Board to consider, under such circumstances, whether it is now the right of the Crown to subvert this long-continued occupation and to obtain an injunction which would extrude the respondents from the reclaimed land. One result of no inconsiderable consequence would, of course, follow. The plots of land, all of which were bounded by the foreshore and the sea, would be converted into inland properties, and the result of artificial reclamation upon the foreshore forty years ago, a reclamation made as above described, not objected to, and followed by occupation ever since, would be the loss of all kinds of navigation, groundage, and other foreshore rights, and the destruction of probably the most serious elements of value in the whole of the respondent's properties.
>
> Their Lordships are of opinion that this result is not in accordance with law.
>
> Further, so far as the Crown is concerned, it is recognised by law that it is the duty of the Crown to protect land from the incursions of the sea, and if, in the circumstances of the present case, a licence had been granted and duly recorded to the respondents to reclaim as was done, that licence would have been in entire accord not only with the right of the subject but with his duty of the Crown."

Most of these considerations on which the Privy Council then acted seem to me to apply here.

In this case there are far better grounds for saying that these businesses were carried on, acquired by the applicants, and conducted by them with permission of the Government and even with representations from its officers that they were licensed. While in that case there may have been a long continued permission or at least acquiescence, in this there was active assent. I, therefore, do not accept the respondent's contention that there was no original licence to support the issue of one in February 1947, if necessary in these circumstances one should be implied. I think applicants are entitled to have their licences treated as valid.

There is another matter I should refer to, the cases which I have cited show that the order made is not always that which might be expected or strictly applicable to the case. In point of fact if the substantive rights are vindicated no point seems to be made, as a rule, to the wording of the Order. In this case, however, the Crown Counsel has taken points which are purely verbal as to the terms of the Order. It might be well, therefore, to amend the rule asked for by adding some provision to the effect that the respondent shall not avoid or treat as avoided the licences granted. There does not seem to me any authority for or against making such amendment now.

Mr. Neal :— I cannot agree to any amendment. The matter came to me from the Attorney General. I am not in a position to agree myself.

Mr. Sharma :— I ask for a peremptory order under section 47 and I ask for costs under section 49. I ask for an order in the present form.

Mr. Neal asked to stay execution, the order to lie in the Registry. Mr. Sharma objected and said that his clients were still suffering loss. Peremptory Order should therefore issue and be stayed for the period of appeal and the applicants to have costs of the cause.

Order Accordingly.

SINGAPORE REPORTS.

LEE AH CHAI v. REX.

[Appellate Criminal Jurisdiction (Murray-Aynsley, C.J.) August 30, 1947]

Penal Code, Section 304A — Degree of negligence required to be proved.

This was an appeal from a conviction under Section 304 A of the Penal Code.

Held, that the degree of negligence required to be proved in charges under section 304 A of the Penal Code is that laid down in cases of manslaughter by negligence in England.

Cases referred to :—

(1) *Lai Cheow Keok v. P. P.* (1940) 9 M.L.J. 104.

(2) *R. v. Bateman* 19 Cr. App. Cases 15.

(3) *Andrews v. Director of Public Prosecutions* (1937) A.C. 576.

MAGISTRATE'S APPEAL.

K. E. W. Hatchard for the Appellant.

Lim Koon Teck (D.P.P.) for the Respondent.

Murray-Aynsley, C. J. : — This is an appeal from a conviction under section 304A of the Penal Code.

The only question is whether a sufficient degree of negligence is proved. If the F.M.S. decision in *Lai Cheow Keok v. P. P.*[1] is to be taken as being law in the Colony the Prosecution in these cases must prove the degree of negligence laid down in *Bateman's case*[2] and *Andrews v. Director of Public Prosecutions*[3].

I have always thought that the F.M.S. case was wrongly decided but I think that on grounds of convenience I should follow it.

In the present case I do not think that the evidence discloses the necessary degree of negligence and the appeal is allowed and the conviction quashed.

Appeal Allowed.

TAN LIAN v. REX.

[Appellate Criminal Jurisdiction (Murray-Aynsley, C.J.) August 30, 1947]

Criminal Procedure Code, Section 435 — General power of forfeiture — Essential Regulations, 1946.

This was an appeal against forfeiture of a motor sampan belonging to the appellant.

Held, that the Essential Regulation did not expressly provide for forfeiture but that a general power of forfeiture arises under Section 435 of the Criminal Procedure Code.

MAGISTRATE'S APPEAL.

C. F. J. Ess for the Appellant.

Lim Koon Teck (D.P.P.) for the Respondent.

Murray-Aynsley, C. J. : — In this case I decided that the Essential Regulation did not expressly provide for forfeiture but that a general power of forfeiture arises under section 435 of the Criminal Procedure Code.

Before exercising this power of forfeiture the Court should, where it is practicable, give the owner of the property concerned an opportunity of showing cause why the order should not be made.

CHU CHIN POH v. REX.

[Appellate Criminal Jurisdiction (Murray-Aynsley, C.J.) July 1, 1947]

Arms and Explosives Ordinance (Cap. 196) Section 7 (1) A. — Possession of arms and ammunition — Person knowingly allowing his house to be used for storage of arms by another person.

In this case the appellant was charged with possession of arms and ammunition contrary to Section 7 (1) A of the Arms and Explosives Ordinance. The facts were that the Police raided the house where the appellant lived. The house belonged to the wife of the appellant. When the Police arrived the appellant ran out and was not seen by the Police again until about a week later. In the house were found arms and ammunition, some in a room, some in a kind of hall. The appellant's story was that the arms belonged to another man.

Held, that if a person who occupies a house as head of the household knowingly allowed his house to be used for the storage of arms by another that person comes within the terms of Section 7 (1) A of the Arms and Explosives Ordinance, even though the house in fact belongs to his wife.

MAGISTRATE'S APPEAL.

E. M. Tampoe-Philips for the Appellant.

Lim Koon Teck (D.P.P.) for the Respondent.

Murray-Aynsley, C. J. : — In this case the appellant was charged with the possession of arms and ammunition contrary to section 7 (1) A of Cap. 196.

The facts are that the Police raided the house where the appellant lived. The house appears to have belonged to wife of the appellant. When the Police arrived the appellant ran out and was not seen by the Police again until about a week later. In the house were found arms and ammunition, some in a certain room, some in a kind of hall.

The story of the appellant was that the room above referred to had been let to the owner of the arms and another man. That the arms belonged to one Ong Hui Seng is probable enough. Whether the other man existed is doubtful and immaterial. The letting, if any, appears to have been a mere licence and not a demise.

In my opinion if a person knowingly allows his house to be used for the storage of arms by another that person is within the terms of the section and this is the case as long as he occupies the house as head of the household even though it belongs to his wife. I find that there is ample evidence of knowledge on the part of the appellant. There was a minimum of attempt at concealment of the arms and ammunition and I can't imagine that a Chinese of the type of the appellant would not be curious about packages left in his house. Further the conduct of the appellant at the time of the raid by the Police and afterwards is indicative of knowledge at least on the part of the appellant.

I think that the conviction is right and the appeal must be dismissed.

Appeal Dismissed.